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IN THE
COURT OF APPEALS OF INDIANA

CHARLES JONES,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-0611-CR-640
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Amy Barbar, Master Commissioner
Cause No. 49G06-0606-FC-109840

June 25, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Following a jury trial, Charles Jones appeals his conviction for stalking[1] as a Class C felony and argues that the evidence was insufficient to support it.

We affirm.

FACTS AND PROCEDURAL HISTORY

Starting in the summer of 2003, Jones engaged in a three-year course of conduct that ultimately resulted in the current stalking conviction, which stemmed from his uninvited contact with a young woman named Danielle. Jones met Danielle through a mutual friend, who introduced the two while they were on a school bus on their way to high school. At some point, the mutual friend told Jones where Danielle lived. Danielle never dated Jones, nor did she consider him a friend.

Nevertheless, on various occasions, Jones confronted Danielle on the bus or at school, sometimes saying what she felt were "strange things" to her, and this conduct made Danielle feel frightened and uncomfortable. *Tr*. at 36, 41, 53. Danielle told Jones to leave her alone, and she always tried to keep friends near her to avoid contact with him. Although Jones was never invited, he sometimes appeared at Danielle's home, where she lived with her parents. Her parents told Jones "on numerous occasions" to stay away from both Danielle and their home. *Id*. at 51.

On the evening of March 23, 2006, Danielle and her stepmother discovered Jones hanging around outside of their house, near Danielle's window. It was very dark outside at the time. Danielle's stepmother called the police, who located Jones at his home and told him to stay away from Danielle.

[1] *See* IC 35-45-10-1.

Shortly thereafter, on March 29, 2006, Danielle sought and obtained a protective order against Jones. Contrary to the terms of the order, Jones continued to appear at Danielle's bus stop, and, on two occasions, he made obscene gestures to Danielle's stepmother when she reminded him that he was not to be at Danielle's stop. She called the police both times, who warned Jones, but did not arrest him.

He also visited, on several occasions, the Subway restaurant where Danielle worked. On the first occasion, Danielle felt "panicked" when she saw him. *Id*. at 44. He came to the restaurant again later that week, and on that occasion Danielle stepped into a back room to avoid contact with him. Jones appeared again at the Subway on June 15, 2006; Danielle felt "helpless" and was in "utter fear." *Id*. at 46. Danielle's manager called the police, who arrived and arrested Jones. Danielle testified that Jones never threatened her.

The State charged Jones with stalking, and the offense was charged as a Class C felony because there was a protective order in place. IC 35-45-10-5(b)(2). A jury found Jones guilty as charged, and the trial court sentenced Jones to four years incarceration, suspending three years and ordering that the remaining year be served on home detention with an electronic monitoring device. Jones now appeals.

DISCUSSION AND DECISION

Jones contends that there was insufficient evidence that he stalked Danielle. In reviewing the sufficiency of the evidence, we will affirm a conviction if, considering only the probative evidence and reasonable inferences supporting the verdict, and without weighing evidence or assessing witness credibility, a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. *Smith v. State*, 802 N.E.2d 948, 954 (Ind.

Ct. App. 2004). When a conviction is based on circumstantial evidence, we will not disturb the verdict if the factfinder could reasonably infer from the evidence presented that the defendant is guilty beyond a reasonable doubt. *Id*.

To convict Jones of stalking, the State was required to prove that he (1) knowingly or intentionally, (2) engaged in a course of conduct involving repeated or continuing harassment of Danielle, (3) that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened, and (4) that actually caused Danielle to feel terrorized, frightened, intimidated, or threatened. IC 35-45-10-1.

Jones first argues that the State failed to prove that Danielle was threatened by his conduct, and, therefore, his conviction should be reversed. Jones's argument fails because, while it is accurate that the State did not prove Danielle was threatened, it was not required to do so. IC 35-45-10-1 is written in the disjunctive, requiring that the State prove that the victim felt terrorized, frightened, intimidated, *or* threatened. (Emphasis added). Sufficient evidence was presented to establish that Danielle felt, at a minimum, frightened, and arguably intimidated as well.

Next, Jones claims that the State did not present sufficient evidence that a reasonable person would feel terrorized, frightened, intimidated, or threatened by his conduct, as required by IC 35-45-10-1. He maintains that Danielle's subjective fear, to which she testified, was not enough to establish the objective standard of what a reasonable person would feel under the same circumstances. Jones's claim fails to recognize that the jury was free to make inferences from the evidence that it heard. *See Smith*, 802 N.E.2d at 954-55 (jury reasonably could have inferred from the content of telephone messages that messages

amounted to impermissible contact that would cause a reasonable person to suffer emotional distress and also could have inferred that threatening message came from defendant); *Simms v. State*, 791 N.E.2d 225, 230 (Ind. Ct. App. 2003) (reasonable for jury to infer from testimony that the victim felt terrorized, frightened, intimidated, or threatened by defendant's conduct). Here, the jury heard evidence that over a three-year period, Jones appeared at Danielle's home, bus stop, and place of employment, after being told repeatedly by Danielle, her parents, police, and even the trial court (via protective order) to stay away from her. From this, a jury could have inferred that a reasonable person in the same circumstances would have felt terrorized, frightened, intimidated, or threatened. Accordingly, the State proved all the essential elements of stalking as a Class C felony by sufficient evidence.

We affirm.

DARDEN, J., and MATHIAS, J., concur.